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PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

In Re Application of:

Michael Marx

Serial No. 10/707,134 Group Art Unit: 3635
Filed: November 21, 2003 Examiner: Tiara S. Robertson
For: DECK LEVERAGE ANCHOR
Docket No. 9091-000002/US

CERTIFICATE OF MAILING/TRANSMISSION (37 C.F.R § 1.8(a))

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Date: May 11, 2007

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BRIEF ON APPEAL

Sir:

The following Appeal Brief is submitted in response to the Notice of Appeal filed February 16, 2007. A one-month extension of time to submit the appeal brief is submitted herewith.

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I. Real Party in Interest

The real party in interest in this matter is Michael Marx, the sole inventor.

II. Related Appeals and Interferences

There are no other known appeals or interferences which will directly affect or be directly affected by or have bearing on the Board's decision in the pending appeal.

III. Status of the Claims

Claims 1 and 24 have been cancelled from the application. Claim 2-23 and 25-51 are pending in the application. Claims 36-50 have been withdrawn from consideration. Appellants appeal claims 2-23, 25-35 and 51.

IV. Status of Amendments

There have been no amendments filed subsequent to the response to the Final Office Action of November 24, 2006.

V. Summary of Claimed Subject Matter

Claim 1 has been cancelled.

Claim 2 depends from claim 3 and recites that a notch 50 comprises a generally U-shaped notch. The notch 50 is described in paragraph 28, line 5 and paragraph 32, line 3. The notch is illustrated in Figures 4 and 6.

Claim 3 is directed to an anchor device 40 for coupling an external device 14 (paragraph 26, line 1) to a surface of a deck (30A). The anchor device 40 is received within an opening 52 of the surface. The opening 52 has an edge of the surface therein. The above configuration is described in paragraph 28, lines 1-9.

The anchor body 44 has a rectangular shape with a longitudinal side and a lateral side. The anchor body 44 is positioned at least partially within the opening so that a fixed dimension notch 50 formed in the lateral side receives the edge of the surface. These claim portions are described in paragraph 32, lines 1-11. The anchor body 44 includes a coupler 64 extending outward from the opening. The coupler 64 couples to the external device 14. The coupler 64 is illustrated in Figures 4-6 and is described in paragraph 30, lines 1-6.

Claim 4 is dependent upon claim 3 and recites that the coupler 64 comprises a first coupler and a second coupler. This is described in paragraph 29, lines 8-9 and is illustrated in Figures 4-6.

Claim 5 depends on claim 4 and recites that the first and second coupler 64 have a respective first coupling hole 66 illustrated in Figure 4 and a second coupling hole 66 therethrough. This is described in paragraph 29, lines 7-9.

Claim 6 depends from claim 5 and recites the first coupling hole 66 and the second coupling hole 66 are co-axial. This is illustrated in Figure 4.

Claim 7 depends from claim 3 and recites that the anchor body 44 comprises a first body portion 60 and a second body portion 62. The first body portion 60 has the coupler 64 and the second body portion 62 has the notch 50.

Claim 8 is another independent claim that recites an anchor device 40 for coupling to an external device 14 described in paragraph 26, line 1 to a surface of a deck 30a. The anchor device 40 is received within an opening 52 of the surface 30a. The opening 52 has an edge of the surface therein. The anchor body 44 includes a first body portion 62 and a second body portion 60. It should be noted that the first and second body portion in the claim is reversed from that described in the specification. The anchor body 44 is positioned at least partially within the opening so that a fixed dimension notch in the first body portion 62 receives the edge of the surface. The second body portion 60 comprises a coupler 64 extending outward from the opening. The coupler 64 couples to the external device 14. The second body portion 60 is rotatably coupled to the first body portion 62. This is described in paragraph 35, lines 6-9 and is illustrated in Figures 6, 7-9.

Claim 9 depends from claim 7 and recites that the second body portion 60 is fixedly coupled to the first body portion. This is described in paragraph 35, lines 1-9.

Claim 10 recites that the second body portion 60 and the first body portion 62 form a unitary structure. This is described in paragraph 35, lines 1-9.

Claim 11 depends from claim 7 and recites that the first body portion 62 has a first planar member 68' extending parallel to the surface. The coupler extends in a direction perpendicular to the first planar member 68'. This is described in paragraph 36, lines 1-4.

Claim 12 is another independent claim that is directed to an anchor device 40 for coupling to an external device 14 described in paragraph 26, line 1. The anchor device 40 is

received within an opening of the surface. The opening 52 has an edge of the surface therein. This is described in paragraph 28.

The anchor body 44 has a first body portion 62 and a second body portion 60. In claim 12, the first body portion and second body portion from the specification have been reversed. The anchor body 44 is positioned at least partially within the opening 52 so that a fixed dimension notch 50 in the first body portion receives the edge of the surface. The second body portion 60 comprises a coupler 64 extending outward from the opening. The coupler 64 couples to the external device 14. The first body portion 62 has a first planar member standing parallel to the surface. Coupler 64 extends in a direction perpendicular to the first planar member. This is described in paragraph 32, lines 1-11.

The anchor body 44 has a flange 70 fixedly coupled to the first planar member and the coupler 64. This is described in Figure 4 and is described in paragraph 30, lines 4-6.

Claim 13 depends from claim 7 and recites that the first body portion 62 further comprises an extension portion 88. The extension portion 88 extends into the second body portion 60. This is described in paragraph 35, lines 5-7 and is illustrated in Figures 4-6.

Claim 14 depends from claim 13 and recites that the extension portion 88 has a circular shape. This is described in paragraph 36, lines 1-4 and is illustrated in Figure 8.

Claim 15 depends from claim 12 and recites that the second body portion 60 comprises a second planar member coupled to the first body portion. This is described in paragraph 31, lines 1-6 and is illustrated in Figure 3.

Claim 16 is another independent claim and is directed to an anchor device 40 for coupling to an external device 14 to a surface of a deck 30a. The anchor device 40 is received within an opening 52 of the surface. The opening has an edge of the surface therein. This is described in paragraph 28. Claim 16 recites an anchor body 44 having a first body portion 62 and a second body portion 60. Claim 16 also has the first body portion and second body portion reversed from the specification. The anchor body 44 is positioned at least partially within the opening 52 so that a fixed dimension notch in the first body portion receives the edge of the surface. The second body portion comprises a coupler extending outward from the opening and a second planar member. The coupler is coupled to the external device. The first body portion and second body portion are described in paragraph 32, lines 1-11. The first body portion 62 has a first planar member coupled to the second planar member. The second planar member is sized

greater than the opening. This is described in paragraph 31, line 3 and is illustrated in Figures 4-6.

Claim 17 depends from claim 15 and recites that the second planar member 72 has a width greater than the opening. This is described in paragraph 31, line 4.

Claim 18 depends from claim 15 and recites that the second planar member 72 has a first length greater than an opening length. This is described in paragraph 31, line 4 and is illustrated in Figure 4.

Claim 19 recites that the second planar member 72 has a first length greater than an opening length and a first width greater than an opening width. This is described in paragraph 31, line 4. This is also illustrated in Figure 4.

Claim 20 is another independent claim and is directed to an anchor device 40 for coupling an external device 14 to a surface of a deck 30a. The anchor device 40 is received within an opening 52 of the surface. The opening 52 has an edge of the surface herein.

Claim 20 recites an anchor body 44 having a first body portion 62 and a second body portion 60. It should be noted that the first body portion and second body portion are reversed from those described in the specification. The anchor body 44 is positioned at least partially within the opening 52 so that the fixed dimension notch in the first body portion 62 receives the edge of the surface 30a. The second body portion comprises a coupler 64 extending outward from the opening and a second planar member 72. The coupler 64 couples to the external device. These elements are described in paragraph 32, lines 1-11. The first body portion 62 has a first planar member 68 coupled to the second planar member 72. The second planar member 72 is disposed parallel to the surface 30a. This is described in paragraph 31, lines 6-8 and is illustrated in Figures 4-6.

Claim 21 depends from claim 7 and recites that the second body portion 62 comprises a channel 84 for receiving a fastener 82. The fastener 82 couples the first body portion 60 to the second body portion. This is described in paragraph 34 and is illustrated in Figures 4-6.

Claim 22 depends from claim 7 and recites a fastener plate 42 coupled to the second body portion 62. This is illustrated in Figure 2 and is described in paragraph 24, line 4 through paragraph 26, lines 3-6.

Claim 23 is directed to an anchor device 40 for coupling an external device 14 to a surface of a deck 30a. The anchor device 40 is received within an opening 52 of the surface 30a.

The opening has an edge of the surface therein. The anchor body 44 is positioned at least partially within the opening 52 so that a notch 50 receives the edge of the surface 30a. The anchor body 44 comprises a coupler 64 extending outward from the opening 52a. The coupler 64 couples to the external device 14. The coupler is trapezoidal in shape. This is described in paragraph 32, lines 1-11 and paragraph 40, lines 1-6.

Claim 25 depends from claim 26 and recites that the notch 50 comprises a generally U-shaped notch. This is illustrated in Figure 4.

Claim 26 recites an anchor device 40 for coupling to an external device 14 of a deck 30a. The anchor device 40 is received within an opening 52 of the surface 30a. The opening 52 has an edge of the surface therein. This is generally described in paragraph 28.

Claim 26 further recites a first body portion 62 having a longitudinal side and a lateral side. The first body portion is positioned at least partially within the opening 52 so that a fixed dimension notch 50 formed in the lateral side receives the edge of the surface 30a and is partially positioned on said surface 30a over said opening 52 and a first member positioned over the opening to engage a top surface of the deck 30a. This is described in paragraph 28. A second body portion 60 has a coupler 64 extending outward from the first body portion. The coupler 64 couples to the external device. This is described in paragraph 32, lines 1-11.

Claim 27 is an independent claim and is directed to an anchor device 40 for coupling an external device 14 to a surface of a deck 30a. The anchor device 40 is received within an opening of the surface. The opening has an edge of the surface therein. This is described in paragraph 28. The anchor device 40 includes a first body portion 62 at least partially within the opening 52 so that a fixed dimension notch receives the edge of the surface and is partially positioned on the surface over the opening 52. A first member is positioned over the opening to engage a top surface of the deck. This is described in paragraph 32, lines 1-11. The anchor device 40 of claim 27 also includes a second body portion 60 having a coupler extending outward from the first body portion 62. The coupler 64 couples to the external device. The second body portion is rotatably coupled to the first body portion 62. This is described in paragraph 35, lines 6-9 and is illustrated in Figures 7-9. It should be noted that the references to the first body portion and second body portion have been reversed from the specification.

Claim 28 is dependent upon claim 26 and recites that the second body portion 60 is fixedly coupled to first body portion 62. This is described in paragraph 35, lines 1-9.

Claim 29 recites that the second body portion 60 and the first body portion 62 form a unitary structure. This is described in paragraph 35, lines 1-9.

Claim 30 depends from claim 29 and recites that a flange 70 is fixedly coupled to the first body portion 62 and the coupler 64. This is illustrated in Figure 4 and described in paragraph 30, lines 4-7.

Claim 31 depends upon claim 26 and recites the first body portion further comprises and extension portion 88. The extension portion extends into the second body portion. This is described in paragraph 35, lines 5-7 and is illustrated in Figures 7-9.

Claim 32 depends from claim 31 and recites that the extension portion 88 has a circular shape. This is illustrated in Figure 6 and is described in paragraph 36, lines 1-4.

Claim 33 depends from claim 26 and recites that the second body portion 62 comprises a first planar member 68 extending parallel to the surface and a second planar member 72 coupled to the first body portion 60. This is described in paragraph 30, lines 1-6 and paragraph 31, lines 1-5.

Claim 34 depends from claim 33 and recites the second planar member is sized greater than the opening. This is illustrated in Figures 3 and 4.

Claim 35 depends from claim 26 and recites the second body portion 60 comprises a channel therethrough for receiving a fastener 82. The fastener couples the first body portion to the second body portion. This is illustrated in Figures 4-6 (para. 34, Figs. 3 and 4).

Claim 51 is an independent claim directed to an anchor device 40 for coupling an external device 14 to a deck 30a. The opening has an edge of the surface therein. The anchor device includes an anchor body 44 comprising a first body portion 62 and a second body portion 60. It should be noted that claim 51 has also reversed the first body portion and second body portion described in the specification. The anchor body 44 is positioned at least partially within the opening 52 so that a notch 50 in the first body portion 62 receives the edge of the deck. The first body portion 62 has a unitary structure including a first planar member 68 disposed adjacent to an upper surface of the deck and has at least one dimension larger than the opening. This is described in paragraph 31, line 4 and is illustrated in Figure 4. A second planar member 72 has a notched formed therein. The second planar member 72 extends adjacent to the edge and a lower surface of the deck 30a. The second body portion 60 comprises a coupler 64 extending outward

from the opening. The coupler couples to the external device 14. The coupler is illustrated in Figures 4-6 and is described in paragraph 30, lines 3-6.

VI. Grounds of Rejection to be Reviewed on Appeal

The following issues are presented in this appeal:

Whether claims 8, 12, 15-20 and 25-35 are unpatentable under 35 U.S.C. §102(b) as being anticipated by Morghen (5,823,588).

Whether claims 2-7, 9-11, 13, 14, 21 and 22 are unpatentable under 35 U.S.C. §103(a) as being unpatentable over Morghen.

Whether claims 2-18, 20-23, 25-35 and 51 are unpatentable under 35 U.S.C. §102(b) as being anticipated by Celette (4,519,236).

VII. Argument

The Rejection of Claims 8, 12, 15-20 and 35 Under 35 U.S.C. §102(b) by Morghen

Claim 8

Claim 8 is an independent claim. Claim 8 has been amended to recite that the notch is a fixed dimension notch. The fixed dimension aspect was carried on into several claims as will be below.

The *Morghen* reference describes a universal hoist assembly. The hoist assembly uses a threaded fastener to couple to a structure 38. The threaded fastener 40 has a nut 43 thereon.

Applicants disagree that the *Morghen* reference includes a notch. However, to clarify the notch in claim 8, the word "fixed-dimension" was placed therein. In the present invention, the first body portion of the anchor portion has the notch therein. The anchor body may be formed from one piece or may be formed from multiple pieces welded or otherwise affixed together. The notch is illustrated in Figure 4 as reference numeral 50. It is clear from the description that the notch does not or cannot change size once it is manufactured. Therefore, the fixed-dimension wording has been included in the notch to highlight the fact that the anchor body or the anchor device is not a clamp but rather an engagement device. That is, the notch engages the surface of the deck so that it is retained therein. When the device is used for pulling, the forces at the notch allow the deck surface to maintain its engagement within the notch so that the anchor device stays in its desired location. A secondary clamping device is illustrated in Figure 10 as a back-up to the anchor body but it is not required.

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The fixed dimension notch is recited on page 2 of the Office Action as a notch formed by 16, 40 and 41 of the Morghen reference. This is illustrated in Figure 2. Sixteen is described as a lower plate, 40 is a bolt, and 41 is a washer that is secured to the bottom surface of the surface by a nut 43. In response to the Appellant's argument, the Examiner states on page 15 of the Office Action, "The use of the term "fixed-dimension" in relation to the notch is not viewed as distinguishing over the prior art. The dimensions of Appellant's notch appear to be fixed only by a threaded fastener (elements 76 and 80) in very much the same way the dimensions of the notches in the cited referenced are. Like Appellant's notch, the notches of the prior art will be fixed so long as the fastener is tightened and held stationary."

It is clear that the Examiner does not understand the present claim and the elements therein. The notch is illustrated as reference numeral 50 in Figures 4 and 6. It is clear that reference numeral 50 remains in a fixed dimension. The reference numerals 76 and 80 described by the Examiner include a fastener 76 and a nut 80. However, these portions are used to couple the first body portion to the second body portion. Again, this highlights the differences between the present application and the Morghen reference. As recited in claim 8, the fixed dimension notch is in the first body portion and not formed from a combination of the first body portion and second body portion. As is best illustrated in Figure 4, the notch 50 is in the first body portion.

Since each and every element is not found in the Morghen reference, Appellant, therefore, respectfully requests the Board to reverse the Examiner's position with respect to claim 8.

Claim 12

Claim 12 is an independent claim that also recites a fixed dimension notch in the first body portion. As mentioned above, in claim 8, the Morghen reference does not recite a fixed dimension notch. Claim 12 also recites a flange fixedly coupled to the first planar member and the coupler. The flange is illustrated in Figure 4 as reference numeral 70.

The Examiner recites reference numeral 20 in the Morghen reference for a flange. However, reference numeral 20 is described in column 3, lines 7-17 as a base 20. The base appears to be part of the coupling portion but does not appear to be fixedly coupled to the first planar member and the coupler. This is because the coupler is made to rotate in the Morghen reference. Appellant, therefore, respectfully requests the Board to reverse the Examiner's position since at least two of the elements of claim 2 are not recited in the Morghen reference.

Claim 15

Claim 15 depends from claim 12 and recites that the second body portion comprises a second planar member coupled to the first body portion. Claim 15 stands or falls together with claim 12.

Claim 16

Claim 16 is an independent claim and also recites a fixed dimension notch in the first body portion that receives the edge of the surface. Because of the similarities to claim 8, claim 16 is also believed to be allowable. Therefore, Appellant respectfully requests the Board to reverse the Examiner's position with respect to claim 16 as well.

Claims 17 to 19

Claims 17-19 stand or fall together with claim 16.

Claim 20

Claim 20 is another independent claim that also recites a fixed dimension notch in the first body portion. As mentioned above, with respect to claim 8, the Morghen reference does not teach a fixed dimension notch in the first body portion. Appellant, therefore, respectfully requests the Board to reverse the Examiner's position with respect to claim 20 as well.

Claim 25

Claim 25 depends from claim 26 and recites a generally U-shaped notch. As mentioned above, there is no fixed dimension notch and, thus, no U-shaped notch recited in the Morghen reference. The description of the notch is set forth above with respect to the arguments in claim 8.

Claim 26

Claim 26 is an independent claim that recites a first body portion having a longitudinal side and a lateral side and that the fixed dimension notch is formed in the lateral side and receives the edge of the surface. The Morghen reference appears to be a round device and, thus, has only one side. That is, no lateral side and longitudinal side are set forth in the Morghen reference. Further, no fixed dimension notch is described above in the arguments of claim 8 is found in a lateral side. Therefore, at least two elements of claim 26 are not found in the Morghen reference. Therefore, Appellant respectfully requests the Board to reverse the Examiner's position with respect to claim 26 as well.

Claim 27

Claim 27 is an independent claim that also recites a fixed dimension notch that receives the edge of the surface. Appellant respectfully requests the Board to reverse the Examiner's position with respect to claim 27 since the fixed dimension notch, described above in the arguments of claim 8, is not taught in the Morghen reference.

Claim 28

Claim 28 stands or falls together with claim 27.

Claim 29

Claim 29 depends from claim 26 and recites that the second body portion and the first body portion form a unitary structure. It is clear from the Morghen reference that the coupler portion rotates. There is, thus, no unitary structure between the first body portion and the second body portion, since the coupler rotates. Also, it appears that the bolts illustrated at 17 hold the structure together and, thus, no unitary structure is formed. As recited in the present application, the unitary structure is a solid one-piece structure. Hence, the name is unitary. Therefore, Appellant respectfully requests the Board to reverse the Examiner's position with respect to claim 29 as well.

Claim 30

Claim 30 is believed to be allowable for the same reasons set forth above with respect to claim 12. That is, Appellant respectfully submits that no flange is present in the Morghen reference. Appellant respectfully requests the Board to reverse the Examiner's position with respect to claim 30.

Claim 31

Claim 31 recites an extension portion 88 that extends from the first body portion into the second body portion. The Examiner points to element 17 used for coupling the upper plate to the lower plate. It appears that element 17, element 14 and element 16 are one structure and the coupler 26 is another element. Therefore, element 17, 14 and 16 are all part of the same portion and not part of different portions as recited in claim 31. This is to allow the coupler 26 to rotate within the cavity. Appellant, therefore, respectfully requests the Board to reverse the Examiner's position with respect to claim 31.

Claim 32

Claim 32 recites that the extension portion of claim 31 has a circular shape. If the Board finds no extension exists in claim 31, then no circular-shaped extension exists as in claim 32. Appellants, therefore, respectfully request the Board to reverse the Examiner's position with respect to claim 32 as well.

Claims 33 and 34

Claim 33 and 34 stand or fall together with claim 26.

Claim 35

Claim 35 recites that the second body portion comprises a channel therethrough for receiving a fastener and that the fastener couples the first body portion to the second body portion. As mentioned above, the fastener 17 illustrated in Figure 2 of the Morghen reference couples plate 14 and 16 together which form one portion of the device. The coupler rotates about portion 20 that is received in a cavity formed within the upper plate 14. There is no fastener coupling the coupler portion 26 together with the lower structure. This allows the coupler to rotate as described in the specification of the Morghen reference. Appellant, therefore, respectfully requests the Board to reverse the Examiner's position with respect to claim 35 as well.

**The Rejection of Claims 2-7, 9-11, 13, 14, 21 and 22 Under 35 U.S.C. §103(a)
by Morghen*****Claim 2***

As mentioned above, there is no fixed dimension notch in the Morghen reference. Therefore, a U-shape notch is also not taught or suggested. Appellant, therefore, respectfully requests the Board to reverse the Examiner's position with respect to claim 2 as well.

Claim 3

Claim 3 also recites the fixed dimension notch. That is not taught in Morghen as described above. Claim 3 also recites a rectangular device. The Morghen reference is circular to facilitate rotating the device. Appellants respectfully submit that the notch and rectangular shape of the device is not suggested in Morghen.

Claim 4

Claim 4 recites that the coupler comprises a first coupler and a second coupler. The Examiner points to 22 and 26 for the first and second coupler in the Morghen reference.

However, Appellant respectfully submits that two couplers are not illustrated. Reference numeral 22 is an extension that is used to receive the bolt that holds shackle 26 in place as described in column 3, lines 35-40. Appellant respectfully submits that this is not a first coupler and a second coupler and, therefore, respectfully request the Board to reverse the Examiner's position with respect to claim 4 as well.

Claim 5

Claim 5 depends from claim 4 and recites that the first coupler and second coupler have a first coupling hole and a second coupling hole therethrough. This claim stands or falls together with claim 4.

Claim 6

Claim 6 stands or falls together with claim 4.

Claim 7

Claim 7 recites that the anchor body has a first body portion that has a coupler and a second body portion that has the notch. As mentioned above, the notch is not taught or suggested in the Morghen reference. Appellant, therefore, respectfully requests the Board to reverse the Examiner's position with respect to claim 7 as well.

Claim 9

Claim 9 recites that the second body portion is fixedly coupled to the first body portion. The Examiner points to element 17 for this feature. However, as discussed above, it appears that the coupler 26 and the extension 22 along with element 20 are one portion and the upper plate 14 and the lower plate 16, together with the fastener 17, are a second portion. Therefore, Appellant respectfully submits that element 17 does not couple the first body portion and the second body portion together to form a unitary structure. It also appears that the coupler is allowed to rotate within the cavity left within the plate 14. Appellant, therefore, respectfully requests the Board to reverse the Examiner's position with respect to claim 9 as well.

Claim 10

Claim 10 depends from claim 7 and recites that the second body portion and the first body portion form a unitary structure. As mentioned above, it appears that the body portions do not form a unitary structure as described in Morghen. Appellant, therefore, respectfully requests the Board to reverse the Examiner's position with respect to claim 10.

Claim 11

Claim 11 stands or falls together with claim 7.

Claim 13

Claim 13 recites the first body portion comprises an extension portion extending into the second body portion. The Examiner points to element 17 for this feature. As mentioned above, element 17 is a fastener that appears to couple the same part of the coupling device together. Therefore, there is no teaching or suggestion for a first body portion extending into the second body portion. Appellant, therefore, respectfully requests the Board to reverse the Examiner's position with respect to claim 13 as well.

Claim 14

Claim 14 recites that the extension has a circular shape. This claim stands or falls together with claim 13.

Claim 21

Claim 21 depends from claim 7 and recites that the first body portion comprises a channel therethrough for receiving a fastener and that the fastener couples the first body portion and the second body portion together. As mentioned above, the Examiner again points to reference numeral 17 which is a fastener. It appears that this fastener does not fasten the first body portion and second body portion together, but rather the same portion of the body to secure the coupler therein. Appellant, therefore, respectfully requests the Board to reverse the Examiner's position with respect to claim 21 as well.

Claim 22

Claim 22 recites a fastener plate coupled to the second body portion. The Examiner points to element 41 for a fastener plate. However, element 41 is merely a washer that is held in place by nut 43. Therefore, the washer is not a fastener plate. Appellant, therefore, respectfully request the Board to reverse the Examiner's position with respect to claim 22 as well.

**The Rejection of Claims 2-8, 20-23, 25-35 and 51 Under 35 U.S.C. §102(b) by
Celette (4,519,236)**

Claim 3

Claim 3 recites a fixed dimension notch in the anchor body that is formed in a lateral side that receives the edge of a surface.

The Celette reference is directed to a clamping device. As illustrated, the T-shaped element 5a and the T-shaped element 5b, which are referred to as a bearing-block, are squeezed together between two bars 7 made from a rectangular cross-section that allows the screw 2 to pass therebetween. This is described in column 2, lines 47-64. By loosening the nuts 11a and 11b, the bearing blocks may be slid to different positions along the line. The Celette reference is directed to a clamping device to be mounted on a frame or bench jig for checking any deformations of a vehicle body. The moveability of the clamping device allows the angle iron member 16 to be positioned at various positions for checking various vehicle bodies.

It appears that the Celette reference does not have an opening within a surface. As mentioned above, the Celette reference has a space between two bars. It also appears that the Celette reference does not have an edge above the surface that is received within a fixed dimension notch. The Examiner points to elements 5a and 5b for forming a notch. However, Appellant respectfully submits that there is no notch in the Celette reference. The notch is used to receive an edge of a surface which does not exist in the Celette reference. Also, the notch in claim 1 is recited as a fixed dimension notch. The elements 5a and 5b of the Celette reference clearly are meant to move and deform so that the jig can be positioned in various positions. Therefore, several elements of claim 3 are not found in the Celette reference.

Claim 2

Claim 2 depends from claim 1 and recites a U-shaped notch. This claim stands or falls together with claim 3.

Claim 4

Claim 4 recites a first coupler and a second coupler. The Examiner points to 19 of 16 and 18 as the first second coupler. It appears that these elements are all part of the same feature which forms a clamping device. Element 16 forms a moveable jaw component. Therefore, Appellant respectfully requests the Board to reverse the Examiner's position with respect to claim 4 since two couplers are not taught in the Celette.

Claim 5

Claim 5 recites that the first coupler and second coupler have a respective first coupling hole and second coupling hole therethrough. The Examiner points to the hole for bolts 22. Both of these elements are in the same structure and, thus, do not form a first and second coupler.

Appellant, therefore, respectfully requests the Board to reverse the Examiner's position with respect to claim 5 as well.

Claim 6

Claim 6 recites that the first and second coupling holes are coaxial. The Examiner fails to point to anything in the Celette reference that refers to coaxial coupling holes. Because the holes are in the same piece, they are not coaxial. This is best illustrated in Figures 1 and 4. Appellant, therefore, respectfully requests the Board to reverse the Examiner's position with respect to claim 6 as well.

Claim 7

Claim 7 recites that the anchor body has a first body portion that includes the coupler and a second body portion that includes the notch. The Examiner points to reference numeral 1 for a first body portion and reference numerals 5a and 5b for a second body portion. Reference numeral 1 refers to the clamp of Celette. Reference numerals 5a and 5b are bearing blocks that are used for clamping the device between the two bars 7. Appellant respectfully submits that no notch is taught or suggested and, therefore, Appellant respectfully requests the Board to reverse the Examiner's position with respect to claim 7 as well.

Claim 8

Claim 8 is an independent claim that recites the fixed dimension notch in the first body portion that receives an edge of the surface. Appellant respectfully submits that claim 8 is believed to be allowable for the same reasons set forth above with respect to claim 3 regarding the notch.

Claim 9

Claim 9 recites that the first body portion is fixedly coupled to the second body portion. As is illustrated in Figure 4 and is communicated by the threads on the shaft, the Celette reference appears to be moveable and, thus, is not fixedly coupled. Appellant, therefore, respectfully requests the Board to reverse the Examiner's position with respect to claim 9 as well.

Claim 10

Claim 10 recites the second body portion and first body portion form a unitary structure. As is mentioned above, the Celette reference appears to be adjustable and, therefore, no unitary structure is set forth.

Claim 11

Claim 11 recites that the first body portion has a first planar member extending parallel to the surface. This claim stands or falls together with claim 7.

Claim 12

Claim 12 is an independent claim that also recites the fixed dimension notch in the first body portion that receives the edge of the surface. As mentioned above with respect to claim 3, this element is not taught or suggested in the Celette reference.

Furthermore, claim 12 recites a flange fixedly coupled to the first planar member and the coupler. The Examiner points to reference numeral 17 as a flange. Reference numeral 17 of the Celette reference is referred to as a sole plate. The sole plate is used for securing the angle iron member 16 thereon. The angle iron member 16 is welded thereon as is set forth in the first full paragraph of column 3 of the Celette reference. Appellant, therefore, respectfully submit that this is not a flange that couples between the coupler and a first planar member. Therefore, this element is not taught or suggested as well. Therefore, because each and every element is not taught in the Celette reference, Appellant respectfully requests the Board to reverse the Examiner's position with respect to claim 12 as well.

Claim 13

Claim 13 depends from claim 7 and recites that the first body portion comprises an extension portion that extends into the second body portion. This claim stands or falls together with claim 7.

Claim 14

Claim 14 stands or falls together with claim 13.

Claim 15

Claim 15 is an independent claim that recites that the second body portion comprises a second planar member coupled to the first body portion. It should be noted that the Examiner refers to reference numerals 5a and 5b as the first body portion then recites the horizontal member of 16 as the second body member. However, claim 15 recites that the second body portion comprises a second planar member coupled to the first body portion. This does not appear to be the case. Therefore, Appellant respectfully requests the Board to reverse the Examiner's position with respect to this claim as well.

Claim 16

Claim 16 is an independent claim that also has the same limitations above with respect to claim 3 relative to the fixed dimension notch in the first body portion that receives the edge of the surface. Claim 16 also recites similar limitations to claim 15 relative to the first body member having a first planar member coupled to the second planar member of the second body portion. The second planar member is sized greater than the opening. As mentioned above, the first and second planar members coupled together are not taught or suggested as mentioned above in claim 15. Therefore, because a fixed dimension notch and the relative positions of the planar members are not set forth in the Celette reference, Appellants respectfully request the Board to reverse the Examiner's position with respect to claim 16 as well.

Claim 17

Claim 17 depends from claim 15 and stands or falls together with claim 15.

Claim 18

Claim 18 depends from claim 15 and stands or falls together with claim 15.

Claim 20

Claim 20 is an independent claim that also recites the fixed dimension notch in the first body portion receives the edge of the surface. Claim 20 also recites that a first planar member coupled to the second planar member in the second body portion and that the second planar member is disposed parallel to the surface. This claim is believed to be allowable for the same reasons set forth above with respect to the other independent claims, namely, claim 3. Appellant, therefore, respectfully requests the Board to reverse the Examiner's position with respect to this claim as well.

Claim 21

Claim 21 depends from claim 7 and recites that the second body portion comprises a channel therethrough for receiving a fastener and that the fastener couples the first body portion to the second body portion. The Examiner points to the threaded device 2 for the teaching of a fastener. With respect to this claim, the second body portion comprises the notch and the first body portion comprises the coupler. As mentioned above, it appears that the threaded portion is fixedly coupled to the angle portion 16 using the sole plate 17. Appellant respectfully requests the Board to reverse the Examiner's position since there is no channel or second body portion

that has a notch as described in claim 3. Appellant, therefore, respectfully requests the Board to reverse the Examiner's position with respect to claim 21.

Claim 22

Claim 22 recites that a first fastener plate is coupled to the second body portion. The Examiner points to 11a as a fastener plate. However, 11a merely refers to a bolt and not a fastener plate. Appellant, therefore, respectfully requests the Board to reverse the Examiner's position with respect to claim 22 as well.

Claim 23

Claim 23 is an independent claim that recites an anchor body partially within the opening that includes a notch that receives the edge of the surface. As mentioned above, Appellant respectfully submits that no notch is set forth in the edge of an anchor body. In addition, claim 23 also recites that the coupler is trapezoidal in shape. The Examiner refers to elements 18 and 19 for having a trapezoidal shape as is illustrated in Figure 4. A trapezoid is a quadrilateral shape that has four sides, two of which are parallel; two of which are not parallel. It appears that no trapezoid is set forth with respect to elements 18 and 19. It appears that elements 18 and 19 merely illustrate rectangular structures. Appellants, therefore, respectfully submit that, since at least two of the elements of claim 13, 23 are not taught in the Celette reference, Appellant respectfully requests the Board to reverse the Examiner's position with respect to claim 23.

Claim 25

Claim 25 depends from claim 26 and recites that the notch is a generally U-shaped notch. As mentioned above, Appellant respectfully submits that no notch is formed. Therefore, no U-shaped notch is formed in claim 25. Therefore, Appellant respectfully requests the Board to reverse the Examiner's position with respect to claim 25.

Claim 26

Claim 26 is an independent claim that recites a notch formed in the lateral side of a first body portion that has a longitudinal side and a lateral side. The fixed dimension notch formed in the lateral side receives the edge of the surface. As mentioned above, Appellant respectfully submits that there is no teaching or suggestion for a fixed-dimension notch. Therefore, Appellant respectfully requests the Board to reverse the Examiner's position with respect to claim 26 as well.

Claim 27

Claim 27 is another independent claim that also recites the fixed-shaped notch that receives the edge of the surface and partially positioned on the surface that engages a top surface of the deck. Claim 27 also recites that the second body portion is rotatably coupled to the first body portion. It is unclear whether or not the first body portion rotates with respect to the second body portion in the Celette reference. Appellant, therefore, respectfully requests the Board to reverse the Examiner's position since at least the fixed-dimension notch is not taught in the Celette reference.

Claim 28

Claim 28 depends from claim 26 and recites that the second body portion is fixedly coupled to the first body portion. It appears that some movement may take place due to the threads illustrated by reference numeral 2 of the Celette reference. Therefore, there is no fixed coupling between the first body portion and the second body portion. Therefore, Appellant respectfully requests the Board to reverse the Examiner's position with respect to claim 28.

Claim 29

Claim 29 recites that the second body portion and first body portion form a unitary structure. For the same reasons set forth above with respect to claim 28, no unitary structure is believed to be taught or suggested in the Celette reference. Appellant, therefore, respectfully requests the Board to reverse the Examiner's position with respect to claim 29 as well.

Claim 30

Claim 30 recites a flange fixedly coupled to the first body portion and the coupler. As mentioned above in claim 12, Appellant respectfully requests that a flange is not taught or suggested. Therefore, Appellant respectfully requests the Board to reverse the Examiner's position with respect to claim 30 as well.

Claim 31

Claim 31 recites an extension portion extending into the second body portion. This claim is similar to claim 13 and is believed to be allowable for the same reasons set forth above.

Claim 32

Claim 32 recites that the extension portion has a circular shape. This is similar to claim 14 and is believed to be allowable for the same reasons set forth above with respect to claim 14.

Claim 33

Claim 33 is dependent upon claim 26 and recites the second portion comprises a first planar member extending parallel to the surface and a second planar member coupled to the first body portion. In claim 26, the second body portion includes the coupler, and the first body portion includes the notch. Although a portion of 5a is parallel to a surface of the rod, a second planar member coupled to the first body portion is not taught or suggested. Therefore, Appellant respectfully requests the Board to reverse the Examiner's position with respect to claim 33 as well.

Claim 34

Claim 34 depends from claim 33 and recites that the second planar member is sized greater than the opening. However, as mentioned above, it appears no second planar member is taught or suggested. The Examiner merely refers to the lower horizontal portion 18 which is part of a different portion in the device. Therefore, Appellant respectfully requests the Board to reverse the Examiner's position with respect to claim 34 as well.

Claim 35

Claim 35 recites that the second body portion comprises a channel that receives a fastener and the fastener couples the first body portion and the second body portion. The Examiner points to element 2 and fasteners 21. The Examiner refers to these elements as one of the body portions. The Examiner refers to one body portion as element 2 and 18 and 17, while the second body portion is 5a and 5b. These elements do not correspond to the fastener 21 since it is only on one of the bodies illustrated in the Celette reference. Therefore, this claim also is not taught in the Celette reference.

Claim 51

Claim 51 is an independent claim that also recites the notch in the first body portion that receives an edge of the deck. The first body portion has a unitary structure that includes a first planar member disposed adjacent to an upper surface of the deck and has at least one dimension larger than the opening. The second planar member has a notch formed therein and the second planar member extends adjacent to the edge and the lower surface of the deck. As mentioned above, Appellant believes that a notch is not set forth in the Celette reference. However, claim 51 further recites more qualifications of the notch in that the notch is formed from two planar members. The second planar member recited in claim 51 has a notch formed therein. The

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second planar member extends adjacent to the edge of the deck and adjacent to the lower surface of the deck. This cannot be found in the Celette reference since two different members 5a and 5b are set forth. This arrangement is impossible to be found in the Celette reference since the elements 5a and 5b are T-shaped elements that fit within a hole but are separated. One member does not extend below and beside the deck surface while another is above. Appellant, therefore, respectfully submit that each and every element of claim 51 is not recited in the Celette reference. Therefore, Appellant respectfully requests the Board to reverse the Examiner's position with respect to this claim as well.

VIII. Claims Appendix

A copy of each of the claims involved in this appeal, namely claims 2-23, 25-35 and 51 is attached as a Claims Appendix.

IX. Evidence Appendix

None.

X. Related Proceedings Appendix

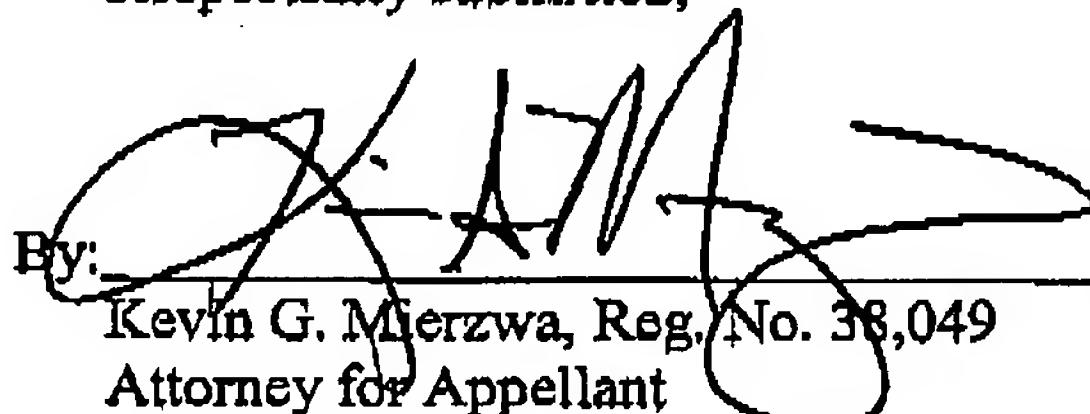
None.

XI. Conclusion

For the foregoing reasons, Appellants respectfully request that the Board direct the Examiner in charge of this examination to withdraw the rejections.

Please charge any fees required in the filing of this appeal to Deposit Account 08-0750.

Respectfully submitted,

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CLAIMS APPENDIX

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2. An anchor device as recited in claim 3 wherein the notch comprises a generally U-shape notch.

3. An anchor device for coupling an external device to a surface of a deck, said anchor device being received within an opening of the surface, said opening having an edge of the surface therein, said anchor device comprising:

an anchor body having a rectangular shape with a longitudinal side and a lateral side, said anchor body positioned at least partially within said opening so that a fixed-dimension notch formed in the lateral side receives the edge of the surface, said anchor body comprising a coupler extending outward from the opening, said coupler coupling to the external device.

4. An anchor device as recited in claim 3 wherein the coupler comprises a first coupler and a second coupler.

5. An anchor device as recited in claim 4 wherein said first coupler and said second coupler have a respective first coupling hole and a second coupling hole therethrough.

6. An anchor device as recited in claim 5 wherein said first coupling hole and said second coupling hole are coaxial.

7. An anchor device as recited in claim 3 wherein the anchor body comprises a first body portion and a second body portion, said first body portion having the coupler and said second body portion comprising said notch.

8. An anchor device for coupling an external device to a surface of a deck, said anchor device being received within an opening of the surface, said opening having an edge of the surface therein, said anchor device comprising:

an anchor body comprising a first body portion and a second body portion, said anchor body positioned at least partially within said opening so that a fixed-dimension notch in the first body portion receives the edge of the surface, said second body portion comprising a coupler extending outward from the opening, said coupler coupling to the external device, the second body portion being rotatably coupled to the first body portion.

9. An anchor device as recited in claim 7 wherein the second body portion is fixedly coupled to the first body portion.

10. An anchor device as recited in claim 7 wherein the second body portion and the first body portion form a unitary structure.

11. An anchor device as recited in claim 7 wherein the first body portion has a first planar member extending parallel to said surface, said coupler extending in a direction perpendicular to said first planar member.

12. An anchor device for coupling an external device to a surface of a deck, said anchor device being received within an opening of the surface, said opening having an edge of the surface therein, said anchor device comprising:

an anchor body comprising a first body portion and a second body portion, said anchor body positioned at least partially within said opening so that a fixed-dimension notch in the first body portion receives the edge of the surface, said second body portion comprising a coupler extending outward from the opening, said coupler coupling to the external device, the first body portion having a first planar member extending parallel to said surface, said coupler extending in a direction perpendicular to said first planar member, said anchor body having a flange fixedly coupled to said first planar member and said coupler.

13. An anchor device as recited in claim 7 wherein said first body portion further comprises an extension portion, said extension portion extending into said second body portion.

14. An anchor device as recited in claim 13 wherein the extension portion has a circular shape.

15. An anchor device as recited in claim 12 wherein said second body portion comprises a second planar member coupled to said first body portion.

16. An anchor device for coupling an external device to a surface of a deck, said anchor device being received within an opening of the surface, said opening having an edge of the surface therein, said anchor device comprising:

an anchor body comprising a first body portion and a second body portion, said anchor body positioned at least partially within said opening so that a fixed-dimension notch in the first body portion receives the edge of the surface, said second body portion comprising a coupler extending outward from the opening and a second planar member, said coupler coupling to the external device, the first body portion having a first planar member coupled to the second planar member, said second planar member is sized greater than said opening.

17. An anchor device as recited in claim 15 wherein the second planar member has a first width greater than an opening width.

18. An anchor device as recited in claim 15 wherein the second planar member has a first length greater than an opening length.

19. An anchor device as recited in claim 15 wherein the second planar member has a first length greater than an opening length and a first width greater than an opening width.

20. An anchor device for coupling an external device to a surface of a deck, said anchor device being received within an opening of the surface, said opening having an edge of the surface therein, said anchor device comprising:

an anchor body comprising a first body portion and a second body portion, said anchor body positioned at least partially within said opening so that a fixed-dimension notch in the first body portion receives the edge of the surface, said second body portion comprising a coupler extending outward from the opening and a second planar member, said coupler coupling to the

external device, the first body portion having a first planar member coupled to the second planar member, the second planar member disposed parallel to the surface.

21. An anchor device as recited in claim 7 wherein the second body portion comprises a channel therethrough for receiving a fastener, said fastener coupling said first body portion and said second body portion.

22. An anchor device as recited in claim 7 further comprising a fastener plate coupled to the second body portion.

23. An anchor device for coupling an external device to a surface of a deck, said anchor device being received within an opening of the surface, said opening having an edge of the surface therein, said anchor device comprising:

an anchor body positioned at least partially within said opening so that a notch receives the edge of the surface, said anchor body comprising a coupler extending outward from the opening, said coupler coupling to the external device, said coupler being trapezoidally-shaped.

25. An anchor device as recited in claim 26 wherein the notch comprises a generally U-shape notch.

26. An anchor device for coupling an external device to a surface of a deck, said anchor device being received within an opening of the surface, said opening having an edge of the surface therein, said anchor device comprising:

a first body portion having a longitudinal side and a lateral side, said first body portion positioned at least partially within said opening so that a fixed-dimension notch formed in the lateral side receives the edge of the surface and partially positioned on said surface over said opening and a first member is positioned over the opening to engage a top surface of the deck; and

a second body portion having a coupler extending outward from the first body portion, said coupler coupling to the external device.

27. An anchor device for coupling an external device to a surface of a deck, said anchor device being received within an opening of the surface, said opening having an edge of the surface therein, said anchor device comprising:

a first body portion positioned at least partially within said opening so that a fixed-dimension notch receives the edge of the surface and partially positioned on said surface over said opening and a first member is positioned over the opening to engage a top surface of the deck; and

a second body portion having a coupler extending outward from the first body portion, said coupler coupling to the external device, the second body portion being rotatably coupled to the first body portion.

28. An anchor device as recited in claim 26 wherein the second body portion is fixedly coupled to the first body portion.

29. An anchor device as recited in claim 26 wherein the second body portion and the first body portion form a unitary structure.

30. An anchor device as recited in claim 29 further comprising a flange fixedly coupled to said first body portion and said coupler.

31. An anchor device as recited in claim 26 wherein said first body portion further comprises an extension portion, said extension portion extending into said second body portion.

32. An anchor device as recited in claim 31 wherein the extension portion has a circular shape.

33. An anchor device as recited in claim 26 wherein said second body portion comprises a first planar member extending parallel to the surface and a second planar member coupled to said first body portion.

34. An anchor device as recited in claim 33 wherein said second planar member is sized greater than said opening.

35. An anchor device as recited in claim 26 wherein the second body portion comprises a channel therethrough for receiving a fastener, said fastener coupling said first body portion and said second body portion.

51. An anchor device for coupling an external device to a deck, said anchor device being received within an opening of the deck, said opening having an edge of the surface therein, said anchor device comprising:

an anchor body comprising a first body portion and a second body portion, said anchor body positioned at least partially within said opening so that a notch in the first body portion receives the edge of the deck, said first body portion having a unitary structure including a first planar member disposed adjacent to an upper surface of the deck and having at least one dimension larger than the opening, and a second planar member having the notch formed therein, said second planar member extending adjacent to the edge and a lower surface of the deck, said second body portion comprising a coupler extending outward from the opening, said coupler coupling to the external device.

IX. Evidence Appendix

None.

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X. Related Proceedings Appendix

None.

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